

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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ALIRIO ZAVALA et al,	:
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Plaintiffs,	:
	:
-against-	:
	:
TOP SHELF ELECTRIC CORP. et al,	:
	:
Defendants.	:
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ORDER

20 Civ. 9437 (JGLC) (GWG)

GABRIEL W. GORENSTEIN, United States Magistrate Judge:

Plaintiffs have submitted a “damages chart” in connection with their motion for default judgment. See Docket # 141-9 (“Damages Chart”). However, the “Wages owed” column in the damages chart does not match the proposed findings of fact. See Proposed Findings of Fact, filed Dec. 19, 2023 (Docket # 150) (“Prop. Find.”). For example, both the proposed findings of fact and damages chart indicate Luis Torres earned \$21,582 (720 hours x \$22/hour + 174 hours x \$33/hour). See Damages Chart; Prop. Find. ¶ 90. Additionally, both filings indicate Torres was paid \$5,940 for his time worked and \$7,656 in the satisfaction of a mechanics’ lien. See Damages Chart; Prop. Find. ¶¶ 91, 93. From here, the calculations of the wages owed differ.

Proposed Findings of Fact: The calculation done here indicates Torres is “owed \$23,628 in unpaid wages and an equal amount in liquidated damages, minus the amount received to release mechanics lien.” Prop. Find. ¶ 94. In other words, Torres is owed \$15,642 in wages (\$21,582 (total earned) - \$5,940 (amount paid) = \$15,642) plus \$15,642 in liquidated damages less \$7,656 from payment in satisfaction of the mechanics’ lien (\$15,642 (wages) + \$15,642 (liquidated damages) - \$7,656 (mechanics lien) = \$23,628).

Damages Chart: The damages chart indicates that Torres is owed \$5,043 in wages and \$5,043 in liquidated damages. See Damages Chart.

Not surprisingly, the total damages in the proposed findings of fact, see Prop. Find. at 33 (\$278,918.37), does not match the total provided in the damages chart, see Damages Chart (\$261,807.65).

As far as we can tell the damages chart is inaccurate. Accordingly, plaintiffs are directed to file a new damages chart with accurate figures, along with a sworn statement from an individual who compiled the chart attesting that any figures as to number of weeks worked, number of hours worked (at both the regular rate and overtime rate), rate of pay, and amount

money received by plaintiffs from defendants, match the assertions made in the plaintiffs' affidavits. Or, if the proposed findings of fact are incorrect, plaintiffs shall file new proposed findings of facts with a similar attestation. The filings required by this paragraph shall be made on or before March 1, 2024.

Dated: New York, New York

February 22, 2024

SO ORDERED:



GABRIEL W. CORENSTEIN
United States Magistrate Judge